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## Economic Crime and Punishment in North Korea

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### Abstract

The penal system has played a central role in the North Korean government's response to the country's profound economic and social changes. As the informal market economy has expanded, so have the scope of economic crimes. Two refugee surveys—one conducted in China, one in South Korea—document that the regime disproportionately targets politically suspect groups, particularly those involved in market-oriented economic activities. Levels of violence and deprivation do not appear to differ substantially between the infamous political prison camps, penitentiaries for felons, and labor camps used to incarcerate individuals for a growing number of economic crimes. Such a system may also reflect ulterior motives. High levels of discretion with respect to arrest and sentencing and very high costs of detention, arrest, and incarceration encourage bribery; the more arbitrary and painful the experience with the penal system, the easier it is for officials to extort money for avoiding it. These characteristics not only promote regime maintenance through intimidation, but may facilitate predatory corruption as well.

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During the 1990s, a famine in North Korea killed between 600,000 and 1,000,000 people, 3 to 5 percent of the population (Haggard and Noland 2007). As the state proved unable to provide food through the socialist distribution network, the economy underwent a process of marketization from below. Small-scale social units—households, factories and cooperatives, local government and party offices, even military units—engaged in entrepreneurial behavior in order to survive. Much of this behavior was technically illegal.

This unplanned and unwanted marketization resulted from the coping strategies of citizens and was not overtly political. But it also eroded state control of the economy and therefore over pathways to wealth, prestige, and ultimately power; it even threatened to create an independent civil society around unregulated market relations. Not surprisingly, the regime's response to this process has been ambivalent at best. At times, the government acquiesced to the facts on the ground and decriminalized or tolerated market activity out of sheer necessity. At other times, the government sought to reconstitute the socialist system through a revival of the state sector and the imposition of controls on private activity, most recently through a confiscatory currency reform announced on November 30, 2009 (Haggard and Noland 2010a).

The penal system has played a central role in the government's response to these economic and social changes. During the famine, the regime established an extensive system of low-level labor training facilities (*ro-dong-dan-ryeon-dae*). These facilities were used to incarcerate those caught crossing the border into China or repatriated by Chinese authorities, movements that increased in the wake of the famine. However, labor-training facilities were also used to punish the unprecedented level of internal movement and market activity that sprung up as heavily affected segments of the population wandered the countryside in search of food (Noland 2000).

The 2004 reform of the criminal code regularized these facilities and specified "labor training" for up to two years as punishment for a growing number of economic and social crimes (Han 2006). A further set of amendments to the criminal code in 2007 lengthened the list of these crimes and increased punishments for them.

We draw on two refugee surveys—one conducted in China, the other in South Korea—to draw a picture of the changing political economy of the North Korean penal system. Respondents portray a judicial and penal system characterized by high rates of arbitrary detention and release. Horrific abuses are characteristic not only of the camps for political prisoners, but are found at all levels of the penal system. In the survey of more than 1,300 refugees conducted in China between August 2004 and September 2005, nearly 10 percent reported incarceration in political and correctional detention facilities. Among this group, 90 percent reported witnessing forced starvation, 60 percent deaths due to beating or torture, and 27 percent executions. These findings are broadly confirmed by a second survey of 300 refugees

conducted in South Korea in November 2008, which also included more detailed questions about initial arrest and detention, the types of facilities in which respondents were held, and the conditions they witnessed while incarcerated.

The emerging portrait of the North Korean penal system suggests a vast machine that processes large numbers of people engaged in illicit activities for relatively short periods, but which exposes them to terrible abuses while incarcerated. This pattern serves to effectively intimidate; our surveys reveal an atomized society in which barriers to collective action are high and overt political opposition minimal. However, repression has not served to eliminate market-oriented activity, in part because of the continuing poor economic performance of the regime. Rather, our surveys suggest a changing political economy in which corrupt officials extract bribes from those in the market, exploiting their ability to limit entanglement with a brutal penal system.

Methodologically, refugee surveys are susceptible to well-known problems of selection bias. Those who undertake the risks of trying to leave North Korea may have more adverse experiences with the regime, which could give rise to behaviors and attitudes that are quite different from the population as a whole. Because crossing the border has historically been seen as a very serious crime, those incarcerated for attempting to exit could have faced particularly severe punishment. The survey may thus accurately capture the experiences of the refugee communities in China and South Korea, but provide only a limited perspective on North Korea.<sup>1</sup>

However, there are some reasons to believe that the sources of bias are somewhat less pronounced than might be thought. We can also reduce at least some sources of bias with multivariate statistical techniques that control for possible demographic or even experiential determinants of political attitudes. Refugees are asked questions not only about their own experience but their observation of others' experiences as well. Refugees' experience with the prison system may also not be unique. There is strong evidence that the punishment of border crossing now resembles the punishment of a widening array of other economic and social crimes associated with the growth of markets.

We begin with a brief overview of the North Korean penal system before turning to a descriptive overview of respondents' experiences with it. A striking finding is that the conditions that are frequently seen as characteristic of the country's infamous gulag of political penal-labor colonies—such as extreme deprivation and exposure to violence—in fact pertain across the penal system, including the work camps established to handle lower-level economic crimes.

We then explore some of the determinants of incarceration. The repressive apparatus

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1. A second, more tractable issue is that the population of refugees may not be demographically representative of the resident, nonrefugee population, overrepresenting particular segments of the population such as women or people from particular occupational categories. Chang, Haggard, and Noland (2009b) and Haggard and Noland (2010b) show that this source of potential bias is negligible.

disproportionately targets those involved in economic activities beyond direct state control, at a rate more than half again as high as the general population. These findings are consistent with the expansive definition of economic crime contained in the 2004 and 2007 changes in the North Korean criminal code. In the last two sections, we use the surveys to provide a more detailed analysis of the emerging North Korean political economy, noting the effectiveness of repression in stilling overt dissent but its inability to eradicate market activity and corruption.

## THE NORTH KOREAN PENAL SYSTEM

In the last decade, a variety of sources have allowed analysts to piece together a picture of North Korea's penal system. Satellite imagery, including images secured through providers such as DigitalGlobe and Google Earth, have permitted a precise mapping of the country's gulag. Yet at the core of our understanding is information provided by refugees who have managed to flee North Korea. This information has appeared in the form of memoirs, unstructured interviews, and databases of human rights violations (Kang 2002, Hawk 2003, Muico 2007, KINU 2009, and Database Center for North Korean Human Rights 2008).

The portrait that emerges from the refugee literature is of a Soviet-style gulag characterized by an arbitrary judicial system, an expansive conception of crime, and widespread abuse including extreme deprivation with respect to food and medical treatment, torture, and public executions. But the penal system is by no means limited to the political prison camps. As is true of all authoritarian systems, North Korea has a complex and differentiated set of penal institutions. A striking feature of this system is the growing incarceration of citizens for economic crimes.

The most notorious component of the North Korean prison system is the massive *kwan-li-so*, variously translated as political prison camps, labor colonies, or concentration camps; we will refer to them as political penal-labor camps. Built to incarcerate those guilty or suspected of political crimes, the number of these massive camps has recently been consolidated from 14 to about 5 sites.<sup>2</sup> With one exception, these camps are administered by the National Security Agency (NSA), an agency with wide-ranging external and internal security functions that include border and immigration control.<sup>3</sup>

The politically suspect initially included counterrevolutionary social forces such as landlords, the religiously active, and members of purged political factions. Over time, it came to encompass anyone guilty of political or ideological crimes or even suspected of disloyalty. Those with extensive knowledge of life outside North Korea have been particularly vulnerable to incarceration in these facilities, including

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2. One camp (Camp 22 near the Chinese border) is estimated to be 31 miles long and 25 miles wide and to hold 50,000 inmates (Harden 2009).

3. A useful summary of the history and functions of the NSA can be found in Min (2007).

repatriated Japanese-Koreans, those who have studied abroad, and those accused of trafficking people out of North Korea.

A distinctive feature of the management of political crimes is that there is little pretense of due process. Political crimes appear to fall outside of criminal statute altogether and are managed with a high level of discretion by the NSA. The NSA either apprehends those accused of political crimes directly or they are remanded to NSA custody (Muico 2007). Once a case is deemed political, the National Security Agency also assumes control of the prosecutorial process. A prosecutor from the NSA will hand down sentences in a closed-door local court session in the name of the Central Court in Pyongyang, including the decision of whether to imprison the criminal for life and whether the criminal's family will also be sent with him. Group punishment in the form of incarceration of extended family and confiscation of property is a distinctive feature of the management of political crimes and incarceration in the political penal-labor camps.

Inmates of the *kwan-li-so* are typically incarcerated under prolonged or lifetime sentences at hard labor in mining, logging, and farming enterprises in the highly inhospitable north and north-central part of the country. Prisoners are also kept on starvation rations and many die of malnutrition and disease. Not surprisingly, the number of escapees from these camps is small; of the 300 refugees interviewed in the 2008 South Korea-based survey, only three report internments in a *kwan-li-so*.<sup>4</sup>

In addition to political crimes, the legal and penal system has also had to cope with an explosion of economic and social crimes that are peculiar to a state-socialist system. These crimes ultimately reflect the inability of the state sector to provide employment and basic necessities, and include efforts on the part of households, and even work and military units, to engage in income-earning activities. From the perspective of the regime, however, these activities can pose political as well as economic challenges. For example, people engaged in unauthorized private enterprise and trading do not show up at their work units and thus evade monitoring. Their activities are also difficult to tax. As a result, authorities have incentives to punish both failure to appear at work and the associated private activity.

Illegal movement is also an important feature of the new economy, including leaving one's home without appropriate travel permits, overstaying travel permits or leaving the country without authorization. This last offense is of obvious significance to our consideration of refugees, as many seeking to leave are either caught in transit or apprehended by Chinese authorities and forcibly repatriated. Yet internal movement without a permit, for example with the objective of trading, is also illegal.

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4. Unfortunately, we have no information on the conditions under which these three were either released or escaped, but curiously the length of their incarceration does not differ significantly from that of the other respondents: one reported incarceration between one and five years, one of less than a year, but one reported being in a *kwan-li-so* for less than a week. It is clearly difficult to draw inferences from three respondents, although the survivor testimony from these camps on these issues is now fairly extensive. See particularly Hawk (2003).

More serious economic crimes include diversion of state output to private use, including food grown on cooperatives, and the illegal use, profiteering from, or even sale of state assets. Some economic crimes are managed through administrative punishments at the level of the work unit, but an increasing number of economic crimes move through the criminal justice system. In the 1999 criminal code, the “Chapter on Offenses against the Management of the Socialist Economy” included eight articles. In 2004, it was re-titled “the Chapter on Offenses against the Management of the Economy” and included seventy-four.

If taken literally, these crimes prohibit a wide array of standard commercial activities and thus leave prosecutors substantial discretion. For example, Articles 110 and 111 of the 2004 criminal code provide for up to two years of labor training for individuals and firms who engage in “illegal commercial activities, therefore gaining large profits.” Article 118 extends similar punishment to “gaining large profits through usury.” Article 119 prohibits “illegally giving money or goods in exchange for labor.” Violations of trade and foreign exchange controls receive particularly detailed attention (Articles 105-107; 116-117; 125-126).

It is noteworthy that this revision of the criminal code came only two years after the initiation of the country’s most significant economic reform initiative in 2002. In 2007, a series of “additional clauses” (*bu-chik*) singled out a number of economic crimes for more severe punishment, including fixed prisons terms and even death. Capital punishment was to be meted out for “extreme cases” of theft of state property and drug dealing, but increased punishments were also given for “illegally operating a business, such as a restaurant, motel, or store,” up to and including the death penalty (for running prostitution rings). We can only assume that these activities are being criminalized because they are in fact taking place.

Incarceration for standard criminal offenses, as well as these new economic crimes, is distributed through the penal system. In addition to the political penal-labor camps, the government also maintains the *kyo-hwa-so*—literally, a “place to make someone better through education”—and sometimes translated as correctional or reeducation centers. In fact, there is little evidence that these facilities perform correctional or reeducation functions. Superficially, they resemble prisons for housing felons and are administered by the People’s Safety Agency, the national police force; we will refer to them as penitentiaries. However, there are predictable differences with penitentiaries in other penal systems. First, the definition of felony crimes in North Korea includes a range of activities that appear political rather than criminal: “antistate, antipeople crimes,” “crimes injurious to socialist culture,” and so on (table 1). Hawk describes the case of a woman imprisoned in a *kyo-hwa-so* penitentiary who had been convicted of disturbing the “socialist order” for singing a South Korean pop song in a private home (Hawk 2003 pg. 46). As in the political penal-labor camps (*kwan-li-so*), prisoners in the *kyo-hwa-so* penitentiaries are

compelled to perform hard labor and refugees with experience in them report that they are subjected to brutal treatment and torture and deprived of adequate food and medical care. Many inmates do not live to serve out their sentences and escape may even be more difficult than from the sprawling political penal-labor camps (Hawk 2003, Muico 2007, KINU 2009 pgs. 97–101). In the 2008 survey, 9 percent of those incarcerated report spending time in a *kyo-hwa-so* penitentiary.

The third and fourth components of the North Korean penal system manage lower-level crimes and misdemeanors. The *jip-kyul-so* or “collection centers” house low- or misdemeanor-level criminals for periods of up to six months of hard labor. As a study by the Korean Institute of National Unification describes this level of the penal system, “the cases handled by ‘collection centers’ include those whose crimes are not serious enough for [*kyo-hwa-so* penitentiaries] but too serious to send off to ‘labor training camps (KINU 2009 pg 95).” Examples would include violating a designated or restricted area or overstaying travel permits, but the KINU report also lists absence from work or group training sessions. Some North Koreans forcibly repatriated from China are also transferred to the *jip-kyul-so* collection centers.

Finally, in addition to the collection centers for incarceration for lower-level offenses there has been an explosive growth of *ro-dong-dan-ryeon-dae* or labor-training centers, a network of facilities that dates to the 1990s. The labor-training centers were not initially a statutory feature of the penal system. Rather, they emerged as an ad hoc response on the part of authorities to the fraying of socialist control during the famine and in its immediate aftermath, including unauthorized movement, black market activity, border-crossing and the other economic crimes listed above (Noland 2000).

The *ro-dong-dan-ryeon-dae* labor-training centers are operated at the municipal level. They constitute mobile labor brigades of relatively small numbers of prisoners—30 to 60—typically held for less than six months in small, minimally-guarded and fenceless compounds. If not apprehended locally, these prisoners have already been through interrogations and been shipped back to their hometowns for final release. Sometimes the detainees in the labor-training centers are even allowed to go to their homes for food or to recover from illness. Detainees do road repair, construction, and substitute for the lack of other forms of energy and transport in the face of shortages, for example, by pushing train cars.

From 2001, this sort of labor training emerged as the preferred sentence for dealing not only with petty crimes but for the growing range of economic crimes as well. In the 2004 revision of the penal code described above “labor training” was explicitly introduced as a new form of punishment and the existence of the *ro-dong-dan-ryeon-dae* labor training centers therefore institutionalized (Han 2006 and KINU 2009 pg. 90).

Labor-training centers have played a particularly important role in the management of those caught crossing the border or repatriated from China (Muico 2007). Leaving the country without permission

was initially considered equivalent to treason. The 1999 criminal law revision acknowledged the economic motives for departure, and distinguished such movement from defectors leaving for “subversive” purposes. Traveling abroad without permission remains a crime in the 2004 penal code, which provides for penalties up to and including death if such activity has a national security or antiregime dimension (Article 62). However, Article 223 of the revised penal code of 2004 permits sentences of up to two years in a *ro-dong-dan-ryeon-dae* labor training center.

Initial screening of repatriated North Koreans typically includes extensive questioning at special National Security Agency detention facilities about contact with South Koreans while in China or exposure to South Korean propaganda, broadcasts, movies or music; those involved in these more serious political offenses are liable to incarceration in *kyo-hwa-so* penitentiaries or even the *kwan-li-so* political penal-labor camps. The NSA retains discretion to either release those involved in border crossing after initial detention, which can last up to several months, or release them to the People’s Safety Agency for incarceration in locally-managed collection centers (*jip-kyul-so*) or labor training centers (*ro-dong-dan-ryeon-dae*).

Incarceration in these two types of lower-level facilities was by far the most common form of contact with the penal system among our respondents. Of the 102 South Korea–based survey respondents who reported some incarceration, 49 reported spending time in a labor-training center and 68, or 23 percent of the entire 300-person sample, reported being detained in collection centers.

Table 2 summarizes the nature of the four main penal institutions including their administration, the nature of the offenses, the prosecutorial process and sentencing, and the number of respondents in our 2008 survey of South Korea-based refugees falling into each institution. Particularly noteworthy is the porous line between political and criminal activities and the wide range of activities that are subject to labor training under the revised criminal code (table 1).

## WHO GETS ARRESTED AND IMPRISONED?

The first point of contact with the legal and penal system in North Korea is typically either with the National Security Agency (NSA) or the People’s Security Agency (PSA), although ad hoc “antisocialist inspection units” have also recently been deployed to deal with border crossing and trafficking as well as economic crimes. The NSA deals with political offenses and conducts the first screening process of those apprehended for border crossing or repatriated by Chinese authorities.

The risks of repatriation in China are great (Kurlantzick and Mason 2006).<sup>5</sup> However, some of those repatriated are engaged in economic activities that require even higher risk movement back and

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5. Refugees detained by Chinese authorities are also subject to abuse and even torture prior to repatriation. See Amnesty International (2000, 2001, and 2004) and Lee (2006).



forth across the border. About one-fifth of the respondents in the China survey had returned to North Korea voluntarily, with the overwhelming reason cited to take money or food back (79 percent and 11 percent of those returning, respectively). Quite naturally, those who were repatriated were incarcerated at a significantly higher rate than those who returned voluntarily.

This analysis is extended in table 3, which reports a multivariate probit analysis of the likelihood of being arrested among respondents in the second, South Korea-based survey. The probability of being arrested is highly correlated with involvement in private market activities; indeed, involvement in such activities generates a more than 50 percent increase in the likelihood of arrest. Detention is associated to a lesser extent with participation in an August 3rd unit, a form of entrepreneurial activity operated through existing state-owned enterprises and other officially sanctioned entities (Haggard and Noland 2010b). These findings are consistent with the regime's expansive definition of economic crime.

Among this sample of refugees, the likelihood of being arrested is also positively associated with having an advanced, post-college education, even when controlling for occupation; being a professional was negatively correlated with probability of arrest, but with a smaller estimated impact. One possibility is that those with higher levels of education are better positioned than others to pursue illicit activities, and thus run higher risks of incarceration. Another possibility is that the regime is more sensitive to the activities of the intelligentsia than other social groups. Intriguingly, being assigned to a military unit is associated with a higher probability of being arrested in this sample, although the number of military respondents was small (16).

Despite the ubiquity of "basic" illicit activities such as market trading, it is striking that laborers and housewives were less likely to be arrested, even though the involvement of housewives in the market is widespread and increasingly well documented (Kim and Dalton 2006). This fact may reflect at least some forbearance on the part of the government where market activities are small scale or part time and seen as serving primarily survival purposes.

The North Korean regime has conducted a succession of classification exercises, dividing the population into a class of reliable supporters, the basic masses, and the "impure class"; in the past, these were known as the "core" (*haek-sim-gun-jung*), "wavering" (*gi-bon-gye-cheung*) and "hostile" (*gyo-yang-dae-sang*) classes. Family class background is a key determinant of life in North Korea.<sup>6</sup> There is modest evidence that being a member of the "wavering" class was positively correlated with likelihood of arrest relative to both the "core" and "hostile" classes.

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6. "Core" supporters of the government, including party members, enjoy educational and employment preferences, are allowed to live in better-off areas, and have greater access to food and other material goods. Those with a "hostile" or disloyal profile, such as relatives of people who collaborated with the Japanese during the Japanese occupation, landowners, or those who went south during the Korean War, are subjected to a number of disadvantages: they are assigned to the worst schools, jobs, and localities and sometimes wind up in labor camps. See Hunter (1999).

To what extent have patterns of arrest changed over time? Regressions 3.2–3.4 include dummy variables marking the period that refugees left North Korea. We call the pre-1999 period the famine era; 1999–2002 as the post-famine period; 2003–05 as the post-reform period; and 2006–present as the post-retrenchment period, signifying the apparent reversal of economic reform that has occurred since 2005. Using the year that respondents left North Korea is at best an indirect means of assessing whether arrest patterns have changed in response to these events, since incarceration is only imperfectly related to time of departure. Nonetheless, the coefficients on these time period dummies are statistically insignificant; there is no variation in the likelihood of incarceration over time. This could be because the respondent's date of exit is simply too imprecise a measure to get at changes in penal practices over time. However, the government's overall propensity to incarcerate may also be unchanged, even if certain forms of punishment such as labor training have become more institutionalized over time.

In short, there is evidence that the authorities disproportionately incarcerate those involved in economic activities beyond direct state control, those with higher education, and those in the “wavering” class. However, the strategy of intimidation is not simply related to detention and incarceration, but what happens to inmates once imprisoned.

## THE NATURE OF PUNISHMENT

Perhaps due to a desire to conform—at least superficially—to international norms, revisions of the legal code have gradually included a number of standard legal protections.<sup>7</sup> Habeas corpus was introduced in the 1998 revision to the constitution. The 2004 criminal procedure law stipulates that “no one shall be arrested or detained in a manner not provided for in the law or without following the procedures prescribed in the law (Article 177).” The law also now stipulates that no arrest shall be made without a warrant; that only investigators and “pretrial agents” can make an arrest (Article 180); and that a pretrial agent making an arrest must apply for and receive preapproval from a prosecutor (Article 181). A number of provisions in the 2004 criminal code revision even outline harsh penalties for those violating rules governing arrest, detention, search, and seizure.

A similar set of provisions appear to pertain with respect to the criminal trial process. The National Security Agency retains significant discretion with respect to all political crimes, but revisions of the

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7. The regime has vehemently rejected the actions of the UN Council on Human Rights, a political body subsidiary to the General Assembly that since 2003 has passed annual resolutions on North Korea's human rights record. The Democratic People's Republic of Korea (DPRK) has also refused to meet with special rapporteurs or the high commissioner for human rights. North Korea takes a different stance toward the UN Human Rights Committee, however, a “treaty body” or technical committee that reviews implementation reports on the International Covenant on Civil and Political Rights. The DPRK submits such implementation reports and sends representatives to the review sessions of these bodies. Some recent legal changes appear to have been undertaken to bring North Korean law into nominal conformity with international standards.

Criminal Procedure Law in 2004 and 2005 stipulate that “all criminal cases shall follow the principles, procedures, and methods stipulated in the Criminal Procedure Law” and that “trials be conducted at appropriate levels of court and the punishment levels shall be determined by court decisions.”

These legal and procedural changes do not seem to matter. Of the 102 respondents in the 2008 survey who had been incarcerated, only 13 reported even receiving a trial at all. Although the numbers are small, this share does not change significantly among those who left after 2005, following the revision of the code; of 25 leaving after that date, 3 (12 percent) report receiving a trial but 22 (88 percent) did not.

Moreover, the absence of a trial and conviction was by no means limited to those cases that ended up with detention in the political penal-labor camps (*kwan-li-so*) and penitentiaries (*kyo-hwa-so*). To the contrary, the share of those reporting that they did not receive trials and convictions was even *higher* in the lower-level penal institutions: 86 percent of those incarcerated in the labor training centers (*ro-dong-dan-ryeon-dae*) and 91 percent of those who served time in the collection centers (*jip-kyul-so*). The North Korean legal and penal system clearly retains an extraordinary level of discretion not only with respect to political crimes, but with respect to lower-level infractions such as economic crimes as well.

Discretion appears to be exercised not only with respect to detention, but with respect to release as well. Given the duration of statutory sentences we expected that those incarcerated would have spent a long time in prison. This did not prove to be the case (table 4). Average time in prison is certainly longer for the political penal-labor camps and the *kyo-hwa-so* penitentiaries; although the numbers in our sample are very small, the lengthy sentences for political crimes are well known. But the information on collection centers (*jip-kyul-so*) and labor training centers (*ro-dong-dan-ryeon-dae*) is suggestive. Virtually all of those incarcerated in the labor training centers are held for less than a year, even though sentencing guidelines typically allow holding prisoners for up to two years. Sixty-three percent of those incarcerated in the so-called collection centers (*jip-kyul-so*) were released within a month.

There is much about this system that we do not understand. It is possible that inmates are escaping or bribing their way out of detention. However, this information is consistent with a model of a police state in which authorities have a high level of discretion in detaining, arresting and prosecuting people, but also a high level of discretion in their ability to release them.

One reason that such a model might be effective is because the conditions in the facilities are designed to have a powerful deterrent and even psychological impact, in effect terrorizing those who are detained. Nearly one-quarter of the sample in the initial China-based survey reported having been arrested in China and repatriated to North Korea. Nearly 10 percent of the respondents reported having been incarcerated in a political detention facility or penitentiary.<sup>8</sup> Ninety percent of this group reported

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8. Specifically, we asked whether they had been detained in either a penitentiary (*kyo-hwa-so*) or other detention facility for political prisoners (*jung-chi-bum su-yong-so*); the objective was to also capture the NSA's detention facilities. This wording

witnessing forced starvation, 60 percent reported witnessing deaths due to beating or torture, and 27 percent reported witnessing executions.

The China survey did not differentiate these experiences by the precise type of penal institution, but this was a focus of the 2008 South Korea–based survey. Table 5 shows the share of respondents by level of penal institution who witnessed executions, forced starvation, deaths from beatings or torture, or the killing of newborns. The pattern of responses is quite similar to that obtained in the earlier survey: a high response rate with respect to generalized forms of abuse, a much lower response rate on the highly specific question on infanticide, lending that respondents are not simply providing interviewers with information that they would like to hear.

What is striking about these findings is the ubiquity of violence and deprivation across the different initial points of contact with authorities and various levels of the prison system. The small number of respondents with experience in the political penal-labor camps—and the short-time one respondent was incarcerated in one—prohibit any firm conclusions about them from our survey, although the record with respect to these institutions has now been thoroughly documented (Kang 2002 and Hawk 2003).

But the findings with respect to lower levels of the prison system are even more striking. In both the lower-level criminal facilities (the *jip-kyul-so* collection centers) and the labor training centers, nearly half of respondents report seeing executions, roughly three-quarters report forced starvation, and nearly a third report witnessing deaths from beatings and torture. These levels of violence are witnessed despite the generally shorter periods of incarceration in these lower-level facilities. The mean period of incarceration in both types of facility was in the range of one month to one year. Prisoners experiencing this typical length of incarceration in a *jip-kyul-so* collection center witnessed abuses at the following rates: executions (75 percent), forced starvation (100 percent), and death by torture and beatings (50 percent). For the labor training centers incarceration for the typical period of time was associated with observing abuses at slightly lower rates: execution (60 percent), forced starvation (90 percent), and death by torture or beating (20 percent). The conclusion is clear: even at these lower-level facilities, inmates are exposed to extreme levels of abuse. It is not surprising that other research has found that incarceration of North Korean refugees is highly correlated with psychological distress akin to post-traumatic stress disorder (Chang, Haggard, and Noland 2009a).

## REPRESSION, COLLECTIVE ACTION, AND THE STATE-MARKET NEXUS

Not surprisingly, the refugees in both surveys hold overwhelming negative attitudes toward the incumbent regime. In the more recent survey of refugees in South Korea nearly 87 percent of the respondents disagreed or strongly disagreed with the statement that the Kim Jong-il regime was getting

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would leave out the so-called collection centers and labor training centers, but the wording of the earlier questionnaire was vulnerable to the interpretation of respondent.

better. More than 90 percent of the respondents disagreed or strongly disagreed with the statement that the economy was improving, citing rising materialism (92 percent), corruption (87 percent) and inequality (84 percent) as problems.

Respondents also show an increasing propensity over time to hold the North Korean government accountable for the country's problems, with the share placing primary responsibility on the North Korean government at more than 95 percent among those who left in the post-retrenchment period (i.e., after 2005). The share citing the policies of foreign governments as a source of the country's difficulties—a core claim of the regime—falls steadily from 18 percent among the famine era leavers, to 4 percent in the post-retrenchment group.

What about the political preferences of the refugees? The respondents were asked three questions regarding the political organization of the Korean peninsula. They were first asked which alternative more accurately represented their views while in North Korea: maintenance of the current North Korean government; installation of a new non-Kim Il-sungist government in North Korea; unification with South Korea (presumably under South Korean leadership given their negative perceptions of the regime in the north); or don't know/none of the above. In addition to their own views at the time of departure, respondents were also asked what they believed now and what they believed the preferences of other North Koreans were.

Unification is supported overwhelmingly (figure 1): not only is there little support for the maintenance of the status quo (only a single respondent out of 300), there is little support for “third way” solutions in which North Korea would remain independent under an alternative political regime. Exposure to South Korea intensifies these preferences at the margin. But the respondents also indicate that their own views mirror those of their peers remaining in North Korea, even though there is obviously no way of judging the accuracy of these claims. There is a slight tendency for these views to be held even more strongly among those who have recently exited North Korea.

That the refugee population is disaffected, holds the government accountable, and prefers regime change in North Korea is not surprising. However, the survey casts important light on the effectiveness of repression and the possibilities for collective action as well.

The share of respondents agreeing or strongly agreeing that the government is increasing restrictions on the citizenry remained relatively constant at 55 to 65 percent across all four subsample periods. Nonetheless, a rising share of respondents and a majority of the final, post-retrenchment era subsample report watching or listening to foreign media. Even more striking is that efforts to curtail the flow of information do not seem to be working. A falling share (nil in the post-retrenchment period) report that they have access to foreign media but decline to watch or listen. Not only is foreign media becoming more widely available, inhibitions on its consumption are declining as well.

Exposure to the penal system and the political police is correlated with consumption of foreign

media and news at the 5 percent level of statistical significance. Admittedly the direction of causality is debatable; we cannot tell whether the system is correctly identifying those engaged in politically deviant behavior or contact with the system actually politicizes the respondent (although either finding would be consistent with our analysis). It is nonetheless notable that the minority who reported that they had formal legal proceedings prior to incarceration had significantly more positive assessments of the regime than the majority that did not, at least suggesting that treatment at the hands of authorities may be shaping attitudes rather than the other way around.

Holding negative attitudes or engaging in illicit behavior does not mean that people are willing to communicate their disaffection with others. The share affirming the statement that people make jokes about the government, while rising, never exceeds 45 percent in any of the subsamples, and the share agreeing with the statement that people complain about the government never reaches 40 percent. Even among an unusually disaffected subgroup of the population—refugees—and despite their overwhelmingly negative assessment of the regime, less than half of the sample report that their peers joked or complained about the government. (Again, exposure to the political police *increases* the statistical likelihood that the respondent reports joking about the government among his or her peers.)

Kim Jong-il appears sacrosanct. Although free discussion of Kim rises steadily among those who left the country after 1998, even among those who fled during the post-retrenchment period, only 8 percent of the respondents report that people spoke freely about Kim Jong-il.

What about collective action? In response to the regime's efforts to control markets, there have been occasional reports of incidents in which market traders, mostly women, have publicly protested such restraints (Martin and Takayama 2008). As previously discussed, involvement with the market is correlated with the likelihood of detention. Could participation in market activities serve to overcome barriers to collective action? To what extent might the market itself become the locus of overt political conflict with the government?

Survey responses depict relatively low levels of collective action among traders. When asked whether traders cooperated with each other, the share of respondents agreeing or strongly agreeing ranged from 32 to 42 percent across the four time periods with no perceptible trend. Likewise, when asked whether traders in the market were beginning to organize to protect their interests, the affirmative response rate was 28 to 29 percent in all time periods—implicit evidence of the continuing atomization of North Korean society.

However the share of household income derived from market sources is correlated with the respondent reporting joking about and speaking freely about the government among peers at the 5 and 10 percent significance level, respectively. The regime's discomfort with the emergence of the market and its potential as a sphere of activity autonomous from the state may be well founded.

Despite limited overt political action—even political communication—a striking feature of the survey is the very high share of respondents (71 percent) engaged in private trading. To get a better picture of the emerging political economy, we asked questions about the most effective route to power and wealth in North Korea. When asked the best way to “get ahead” in North Korea, 80 percent answered being a member of officialdom (including both government and party), which trumped by a substantial margin either the military or engaging in business. The share citing “engaging in business” more than doubled from 8 percent among respondents departing in the famine era to 16 percent for those leaving in the post-2005 era, with this shift coming almost completely at the expense of joining the military.

When asked “what is the easiest way to make money in North Korea”—work hard at assigned job; engage in market activities; engage in corrupt or criminal activities; or none of the above—the most frequent response was that engaging in market activities was the easiest way to make money (67 percent of those who left North Korea post-retrenchment period). But a steadily increasing share—more than one-quarter in the post-2005 cohort—saw corruption and criminality as the most lucrative career path. There is no sense that fidelity is rewarded; only a very small—and falling—share reported that working hard at your assigned job yielded fruit (4 percent of those who left during the famine era to 2 percent of those who left during the post-retrenchment period). Official position was seen as valuable by respondents not because merit or diligence is rewarded, but because it enables the pursuit of business and corrupt or criminal rent extraction.

## **CONCLUSION: A MODEL OF ECONOMIC CRIME AND PUNISHMENT IN NORTH KOREA**

The refugee literature provides a much more eloquent testimony to the abusive nature of the North Korean system than anything we can add here. However, this brief review of the development of the criminal and penal system and evidence from two surveys does shed some additional light on the nature of crime and punishment in North Korea. First, the development of the legal system exhibits what appear to be contradictory trends. There is a marginal increase in legalization, in the sense of incorporating basic legal protections into statute, and a relaxation in the treatment of some crimes related to economic survival. The best documented example of this forbearance is the legal treatment of border crossing, which has been demoted from the equivalent of treason to a misdemeanor offense for those showing no political motive and avoiding contact with “depraved” foreign culture.

Yet at the same time, the range of economic activities deemed criminal has expanded dramatically. Also apparent is the institutionalization of “labor training” as a means of dealing with these and other low-level crimes. These two trends can be reconciled by noting that the government maintains a very high level of discretion; whatever the law says, the security apparatus is capable of making adjustments in

detention and incarceration with few checks on its authority. One might expect an uptick in detention and incarceration whenever the government is intent on checking market activity, as it has been since 2005 in particular (Haggard and Noland 2010b).

The statistical analysis of detention experiences suggests that those involved in market activities are more than half again as likely to be incarcerated. The penal system subjects these detainees to horrific conditions in an attempt to keep them atomized and quiescent; a major finding of our paper is that conditions in lower-level penal facilities approximates in several measurable ways conditions in facilities designed to house felons and even the most dangerous political prisoners. Of course, incarceration in political penal-labor camps and penitentiaries carries much longer sentences, and many prisoners end up dying in them. Yet it is nonetheless surprising that among our respondents, there was very little difference in the propensity to witness extreme forms of violence and deprivation in the notorious *kwan-li-so* penal-labor camps and penitentiaries than there was in the lowest-level detention or labor training facility.

In combination, these findings provide insight into the centrality of discretion and terror to the maintenance of the North Korean regime's power. Obviously, authoritarian regimes have strong incentives to mete out particularly harsh punishment for those posing overt political challenges. But in a fraying socialist system, individuals are, out of necessity, thrown into a variety of market-like activities that are beyond the state's control. The regime has maintained—and perhaps even expanded—its discretion to arrest, detain, and terrorize those engaged in market-oriented activities and appears to treat them as harshly as they do either common criminals or the most dangerous counterrevolutionaries.

Such a system obviously has the effect of sowing fear. “Labor training” has the additional benefit of constituting a form of *corvée* labor or tax. But this pattern of detention may also have an additional economic motivation. Our surveys provide evidence of an increase in corruption in North Korea; in the post-retrenchment period, fully 85 percent of respondents reported that they needed to pay bribes to engage in market activity. High levels of discretion with respect to arrest and sentencing and very high costs of detention, arrest, and incarceration have the effect of increasing bribe costs. The more arbitrary and painful the experience with the penal system, the easier it is for officials to extort money for avoiding it. As a result, these features of the penal system may not only serve the objective of regime maintenance through intimidation, but could provide incentives and opportunities for the corruption of the internal security apparatus as well. Corruption may act as a safety valve in a fraying socialist system; a means of maintaining support among cadre by providing them access to economic rents. But predation on the part of underpaid officials can also generate a divergence between the policy interests of the government and the private interests of its officials. This divergence could create substantial risks for the regime over the longer run, as repression is harnessed not to ideological objectives—however cynically those are already viewed—but to private gain by government, party, and internal security functionaries.



**Table 1 Types of crimes and corresponding place of detention**

Category	Correctional centers		Designated location
	Unlimited term	Limited term	Labor training
Anti-state, anti-people crimes (14 types)	Conspiracy to overturn the state (5 types)	Conspiracy to overturn the state (14 types)	—
Crimes disruptive to national defense systems (16 types)	—	Neglecting preparedness for wartime production (15 types)	Neglecting preparedness for wartime production (10 types)
Crimes injurious to socialist economy (104 types)	Taking or robbing state properties (6 types)	Stealing or robbing state properties (83 types)	Stealing or robbing state properties (76 types)
Crimes injurious to socialist culture (26 types)	Smuggling historical relics and smuggling and selling of narcotics (3 types)	Importing and spreading depraved culture (25 types)	Importing and spreading depraved culture (16 types)
Crimes injurious to administrative systems (39 types)	—	Collective disturbance; interfering with official business (30 types)	Interfering with official business; creation or dissemination of false information (29 types)
Crimes harmful to socialist collective life (20 types)	—	Acts of hoodlumism or racketeering (15 types)	Acts of hoodlumism or racketeering (18 types)
Crimes injuring life or damaging property of citizens (26 types)	Willful murder or kidnapping (3 types)	Willful murder (25 types)	Excessive self-defense (13 types)

Source: Korean Institute for National Unification's White Papers on Human Rights in North Korea 1009, Table 2-4.

**Table 2 The North Korean prison system: an overview**

<b>Facility</b>	<b>Supervising institution</b>	<b>Offenses</b>	<b>Prosecutorial process and sentencing</b>	<b>Number in 2008 sample (n=300; number incarcerated=103). Numbers do not sum to 100 percent because of multiple incarcerations</b>
<i>Kwan-li-so</i> political penal-labor camps	National Security Agency (Bureau 7)	Serious political and ideological crimes, but also imprisonment of suspect categories	High level of NSA discretion; life sentences, including for extended family; confiscation of property	3 (3.9 percent of those incarcerated)
<i>Kyo-hwa-so</i> penitentiaries	People's Security Agency	In addition to criminal felonies, serious crimes disruptive of national defense, injurious to the socialist economy, injurious to socialist culture, injurious to administration and harmful to socialist collective life	Trial and court sentencing; "limited" terms of 1 to 15 years and "unlimited" terms of more than 15 years of correctional labor	9 (11.3 percent)
<i>Jip-kyul-so</i> collection centers	People's Security Agency	More serious misdemeanors and economic crimes, including theft of state property, spreading "depraved culture," some border crossing	Trial and court sentencing; sentences of six months to one year	68 (75.6 percent)
<i>Ro-dong-dan-ryeon-dae</i> labor training centers	People's Security Agency, operated at county or municipal level	In addition to lower-level crimes, an expansive number of economic crimes, violations of labor administration and rules governing socialist culture	Initially ad hoc rehabilitation facilities; institutionalized with 2004 revision of the penal code and expanded use of "labor training" as punishment; sentences of six months to two years	49 (55.7 percent)

Source: Authors' calculations.

**Table 3 Detainment by bo-wi-bu or an-jeon-bu polices in North Korea  
(probit arrested=1)**

	(1)	(2)	(3)	(4)
	<b>Arrest: detained by either bo-wi-bu or an-jeon-bu police</b>			
Class: wavering	0.305*	0.307*	0.304*	0.304*
	-0.166	-0.167	-0.166	-0.166
Private activity	0.561***	0.581***	0.570***	0.562***
	-0.19	-0.194	-0.19	-0.191
Occupation: professional	-0.867**	-0.880**	-0.885**	-0.861**
	-0.386	-0.374	-0.384	-0.386
Occupation: housewife	-1.109***	-1.170***	-1.131***	-1.106***
	-0.251	-0.247	-0.25	-0.251
Occupation: laborer	-0.517***	-0.532***	-0.527***	-0.517***
	-0.181	-0.182	-0.182	-0.181
Work unit: August 3rd unit	0.486*	0.465*	0.500*	0.484*
	-0.259	-0.26	-0.26	-0.259
Work unit: army	0.692*	0.625*	0.686*	0.691*
	-0.353	-0.353	-0.351	-0.355
Education: post college	1.404**	1.386**	1.378**	1.411**
	-0.639	-0.634	-0.642	-0.64
Left North Korea post-reform period (2003~)		-0.218 -0.159		
Left North Korea post-judicial reform (2005~)			-0.142 -0.182	
Left North Korea post-retrenchment period (2006~)				0.045 -0.217
Constant	-0.762*** -0.204	-0.650*** -0.215	-0.727*** -0.211	-0.769*** -0.209
Observations	300	300	300	300
Pseudo R-squared	0.115	0.12	0.116	0.115
Log likelihood	-171.4	-170.4	-171.1	-171.3
Chi-squared	43.8	47.71	46.19	43.81

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1

Robust standard errors in parentheses.

Source: Authors' calculations.

**Table 4 Length of imprisonment by detention facility**

		<b>Kwan-li-so</b>	<b>Kyo-hwa-so</b>	<b>Jip-kyul-so</b>	<b>Ro-dong-dan-ryeon-dae</b>
Less than 1 week	Frequency	1	2	11	10
	Percent	33.33	22.22	16.42	20.41
Less than 1 month	Frequency	0	1	31	17
	Percent	0	11.11	46.27	34.69
Less than 1 year	Frequency	1	2	22	20
	Percent	33.33	22.22	32.84	40.82
Between 1 and 5 years	Frequency	1	3	3	2
	Percent	33.33	33.33	4.48	4.08
More than 5 years	Frequency	0	1	0	0
	Percent	0	11.11	0	0
Total	Frequency	3	9	67	49
	Percent	100	100	100	100

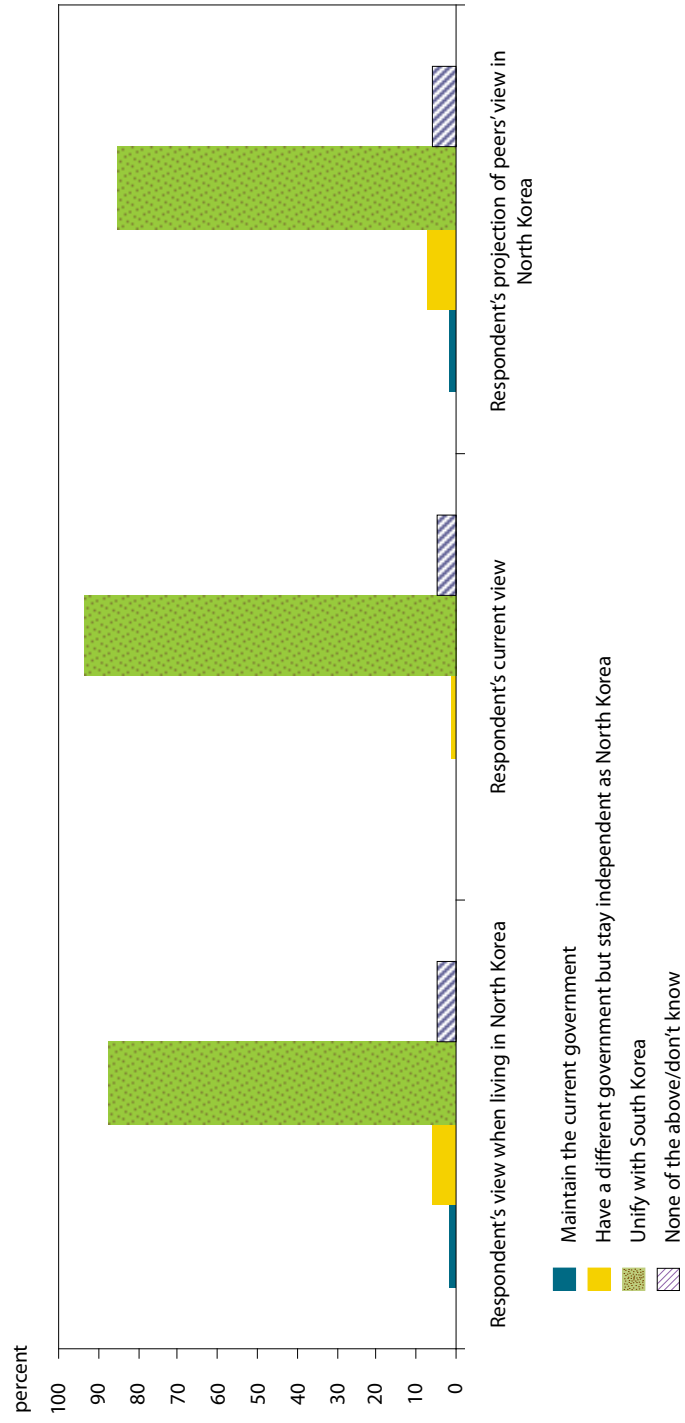
Source: Authors' calculations.

**Table 5 Experiences of violence in the North Korean prison system (share of those imprisoned in each type of facility)**

	<b>Kwan-li-so</b>	<b>Kyo-hwa-so</b>	<b>Jip-kyul-so</b>	<b>Ro-dong-dan-ryeon-dae</b>
	<i>N=3</i>	<i>N=9</i>	<i>N=68</i>	<i>N=49</i>
<b>While you were detained or imprisoned did you see with your own eyes:</b>				
Executions	66.7	77.8	50.8	47.9
Forced starvation	33.3	66.7	73.1	83.7
Death from being tortured or beaten	33.3	55.6	33.3	30.61
Killing of newborns	0	11.1	7.7	8.3

Source: Authors' calculations.

**Figure 1 Views on unification**



Source: Authors' calculations.

## APPENDIX: SAMPLE CHARACTERISTICS

This paper draws on two refugee surveys. Neither of these surveys was random; neither we nor anyone else know the underlying characteristics of the refugee population, and cluster-type techniques used in other contexts to correct for these problems were infeasible. Nonetheless, a comparison of the composition of the survey with underlying demographic characteristics of the country and what we know about patterns of egress suggests that the two surveys are probably a reasonable reflection of the North Korean refugee population. The Chang, Haggard, and Noland survey of 1,346 refugees was conducted from August 2004 to September 2005 at 11 sites in China by 48 individuals trained by one of the authors before conducting the interviews (Chang, Haggard, and Noland 2009a).<sup>9</sup> Most of the respondents were prime age adults, with a median age of 38 years and females slightly outnumbering males (52 to 48 percent). As in other surveys, members of lower-income classes and residents of the northeast provinces were both overrepresented.<sup>10</sup> Most respondents were laborers (54 percent), with farmers (34 percent) the next largest occupational group. Most respondents were from North Hamgyong province (57 percent), followed by South Hamgyong province (19 percent); these two provinces both felt the brunt of the famine and are geographically proximate to the border. Although this distribution of responses actually makes these provinces somewhat less overrepresented than in earlier surveys, these provinces account for only about 23 percent of the North Korean population (United Nations Population Fund 2009).

The survey of 300 North Korean refugees living in South Korea was conducted in November 2008. Again, the overwhelming majority of the second survey was prime age adults, with just over half between the ages of 35 and 50, and a larger majority than in the Chinese survey accounted for by women (63.3 percent). Residents of the northeast provinces were again overrepresented, with North Hamgyong province accounting for 50 percent of respondents followed by South Hamgyong province with 14.7 percent. It is important to underscore, however, that while this overweighting of the northeast limits the conclusions that can be drawn from the sample with respect to the North Korean population as a whole, it does not necessarily present a problem for drawing inferences about the North Korean refugee communities in China and South Korea, which almost certainly are similarly skewed.

The occupational status of the respondents in the second survey is complicated somewhat by the large number of women in the sample; 52, or 17.3 percent of respondents, report that they are housewives. If we look only at those in the economically active population—excluding housewives, students and retirees (73 respondents, or just under one quarter of the sample)—the largest category

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9. The sites in China were: Shenyang, Changchun, Harbin, Yangbin, Tumen, Helong, Hunchun, Dandong, Jilin, Tonghua, and Wangqing.

10. See also Robinson, W. Courtland et al. (1999, 2001a, and 2001b), Lee et al. (2001), Chon et al. (2007), Lee (2007), Kim and Song (2008), and Lee et al. (2008).

among those in the workforce is laborers (40.1 percent), followed by government (18.9 percent), and merchants (7.9 percent, with nearly two-thirds of those women); the occupational distribution of the South Korea survey thus differs somewhat from the China survey and is more diverse. However, a closer inspection reveals that a substantial share of those listing their profession as laborers in fact work on collective farms or cooperatives, resulting in an occupational mix that is closer to the Chinese survey than it first appears.

With respect to political classification, the bulk of respondents were categorized as “wavering” (61.7 percent) with 11 percent “hostile” and 13.7 percent reporting that they did not know. Nonetheless, 13.7 percent reported being in the “core” group, suggesting that even privileged political status did not provide benefits adequate to deter migration.

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